IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Bail Appl..No. 5935 of 2007()

CRMP.3840/2007 of DISTRICT COURT, THODUPUZHA

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CRIME NO. 353/2007 OF KANJAR POLICE STATION

PETITIONERS: ACCUSED NOS.1 & 4:

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1. SALIM C.EAPEN, AGED 39,
S/O. EAPEN, CHAMAPPARAYIL HOUSE, METHOTTY KARA,
VELLIYANATTOM VILLAGE.

2. SANTHOSH, AGED 32,
S/O. EAPEN, CHAMAPPARAYIL HOUSE,
ELLUMPURAM KARA, MUTTOM VILLAGE.

3. SABU, S/O. EAPEN,
CHAMAPPARAYIL HOUSE,ELLUMPURAM KARA,
MUTTOM VILLAGE.

4. JOSHY C.EAPEN, S/O. EAPEN,
AGED 35, CHAMAPPARAYIL HOUSE,
ELLUMPURAM KARA, MUTTOM VILLAGE.

BY ADV. SRI.B.RAMAN PILLAI
SRI.R.ANIL
SRI.ANIL K.MOHAMMED
SRI.DELVIN JACOB MATHEWS
SRI.TARIN T.R.

RESPONDENTS: COMPLAINANT:

STATE, REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J
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B.A.No.5935 of 2007
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Dated this the 3rd day of October, 2007

ORDER

Application for anticipatory bail. The petitioners are husband of the de facto complainant and his relatives. The marriage took place on 6.5.02. Three children were born in the wedlock. The de facto complainant alleges that the petitioner is guilty of the matrimonial cruelty of the culpable variety against the de facto complainant . Alleging that she has suffered physical pain on account of such cruelty she had got herself admitted in a hospital and the FI statement is recorded at the hospital. The learned counsel for the petitioners submits that there is some strain in the matrimony. A child born in the wed lock is physically disabled and that is causing strain in the matrimonial tie. The learned counsel for the petitioners submits that fanciful and false allegations have been raised merely because of the strain in the matrimonial tie. It is prayed that the petitioners may be spared of the undeserved trauma of arrest and detention.

2. The learned Public Prosecutor does not raise objections against grant for anticipatory bail. The learned Public Prosecutor after perusal of the case diary submits that no actual physical injury except allegations of pain appears to have been suffered by the victim. Strict and appropriate conditions may be imposed, it is urged. It is

submitted that the victim has not suffered any external injury.

3. I am satisfied that anticipatory bail can, in these circumstances, be granted. In coming to the conclusion, I take note of the fact that the arrest and incarceration of the petitioners is likely to mar the matrimonial tie beyond repair. Appropriate conditions can of course be imposed in the interests of a fair, efficient and proper investigation.

4. In the result, this application is allowed. The following directions were issued under Section 438 Cr.P.C.:-

i) The petitioners shall appear before the Learned Magistrate having jurisdiction at 11 a.m on 09.10.2007.

ii) They shall be enlarged on regular bail on their executing a bond for Rs.25,000/-(Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m. and 4 p.m on 10.10.07 and 11.10.07 and thereafter they shall make themselves available for interrogation before the investigating officer between 10 a.m and 12 noon on all Mondays and Fridays, for a period of two months and thereafter as and when directed by the Investigating Officer, in writing to do so.

iv) If the petitioners do not surrender before the learned Magistrate as directed in clause (i), all directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with them in accordance with law.

v) if the petitioners were arrested prior to their surrender on 9.10.07 to the learned Magistrate as directed in clause (i) above, they shall be released forthwith on their executing a bond of Rs.25,000/- (Rupees Twenty five thousand only) without any sureties undertaking to appear before the learned Magistrate on 9.10.07 as directed in clause(i) above.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE